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INTERNATIONAL LONGSHOREMEN'S ASSOCIATION • AFL-CIO

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John Bowers
President

September 25, 2003

VIA UPS

Mr. Bryant L. VanBrakle, Secretary
Federal Maritime Commission
800 North Capitol Street, NW
Washington, DC 20573

Re: Petition P3-03

Dear Mr. VanBrakle:

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FEDERAL MARITIME COMMISSION

The International Longshoremen's Association, AFL-CIO takes exception to the application of UPS for an exemption from the prohibition on NVOCC's from entering into confidential contracts with their customers.

When OSRA was before Congress in 1998, the concept of the "sizes" or activities of NVO operations were never in issue as determinative factors. Rather, the off-pier attributes of NVO operations as compared (or: contrasted) with those of established ocean carriers differentiated them. Indeed, since then, nothing but the growth — or expansion — of NVO activities has changed.

We are certain that the UPS's Petition does not presently stand alone in beckoning an exception. In its wake are coming those of *its* competitors, as the spearheads of a movement to pry open a breach in the wall that Congress recognized to exist between the direct transporters of ocean cargoes and the shippers' inland agents. We submit that once this opening is created, other NVO's of all types and sizes seek to squeeze through on the premise that to deny them as well on rationalized, rather than statutory, grounds is discriminatory. The Commission will be hard-pressed to devise viable distinctions that were neither devised nor sanctioned by Congress and which can very well spur the onset of litigation. Meantime, the Commission may not disregard those indicia that separate NVO's from *bona fide* carriers.

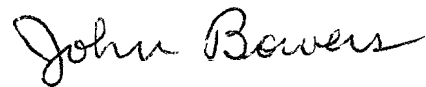
Let UPS take its approach through the front door and make its arguments to Congress, wherein they belong, lest OSRA's prohibition effectively became a nullity. The gut issues and their ramifications are too far-reaching to warrant the Commission's determinations

Mr. Bryant L. VanBrakle, Secretary
September 25, 2003
Page Two

on a case-by-case basis when the volume of filings that reportedly wait in the wings promise to overturn, rather than simply make a limited exception to, the Congressional scheme in OSRA.

The ILA therefore urges you to reject UPS's Petition.

Sincerely yours,

A handwritten signature in black ink that reads "John Bowers". The signature is written in a cursive, flowing style.

John Bowers
President

cc: Mr. Albert Cernadas, Exec. Vice-Pres., ILA, AFL-CIO
Mr. Robert E. Gleason, Sec. Treas., ILA, AFL-CIO
Mr. Benny Holland, Jr., Gen. Vice-Pres., ILA, AFL-CIO
Mr. Gerald Owens, Gen. Org., ILA, AFL-CIO
Mr. Harold J. Daggett, Asst. Gen. Org., ILA, AFL-CIO
Mr. Richard P. Hughes, Jr., Sec.-Treas., ACD, ILA, AFL-CIO
Mr. John Bowers, Jr., Legis. Dir., ILA, AFL-CIO
Gleason & Mathews, P.C.